

**Access to Microfinance & Improved Implementation of Policy Reform  
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**Implementation of the Law on Agriculture**

Final Report

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## status report, from Jan-Feb, 2000

### Task Number 4.4.12 “Implementing the Law on Agriculture”

Task	Status	Problems/Issues
1 Provide on-the-job training to the staff of the Ministry of Agriculture and WTO Unit on periodically updating ACC4	<ul style="list-style-type: none"> <li>Drafting report (training manual) on means and schedules for meeting notification requirements</li> <li>Letters/MOUs for obtaining necessary data from other government entities have been sent</li> <li><b>Training of MOA/PD/AEP/ITSD staff on ACC4 will commence shortly</b></li> </ul>	MOA staff in International Division is not very competent. Trying to broaden training to include other staff (some resistance). Am drafting a Division workplan and position descriptions to demonstrate need for other staff. GTZ assisting.
2 Assist the Ministry of Agriculture in the development of regulations and instructions to implement the Law on Agriculture	Met with GTZ and MOA counterparts to present my workplan. Commitment for full participation received. Regulation review will begin Feb 6.	
3 Assist the Ministry of Agriculture in ensuring that SPS measures applied in Jordan are applied in the least trade distorting manner and no stricter rules are applied than those laid out by international organizations such as OIE	Will draft 2 critical regulations with MOA staff beginning week of Feb 21  Met with Tony to discuss common issues.	
4 Assist in the development of the inquiry and notification points on SPS (coordinate with TBT and SPS/Food experts) and establish data requirements, procedures, means and schedules for meeting notification requirements; assist in preparing initial notification	Developing preliminary workplan and position descriptions.	Need additional staff (see note above).
5 Streamline border control for agricultural products in accordance with Annex C of the SPS agreement		
6 Assist the Ministry of Agriculture in developing a program for identifying SPS measures inconsistent with international norms and for determining (based on scientific evidence) where higher protection may be kept		

Task		Status	Problems/Issues
7	Provide training on border control to the Ministry of Health, the Ministry of Agriculture, JISM, and customs		
8	Provide education to importers and exporters on new procedures; develop and disseminate business guidelines		

## Is There a Need for Import Licensing by MOA?

In the new licensing law, MOA is to be granted line authority for issuing non-automatic import and export licenses for live animals. Non-automatic licenses are granted "...after fulfillment of required procedures and terms." Such licenses may be issued when protection of public safety, the environment, public health, natural resources, national security, public order or morality are at issue. In addition, non-automatic licenses are necessary to monitor "quantitative restrictions in accordance with relevant laws and international agreements." Therefore, there are only two conditions under which MOA should issue licenses for live animals or any other agricultural product: to protect public (animal) health or monitor quantitative restrictions.

### Public Health

In the new agriculture law, the articles dealing with SPS measures protect animal health. In particular, the health requirements of imported animals are regulated by the article dealing with SPS certificates. That article requires the Minister to define the content of SPS certificates (i.e., specify the health requirements of imported agricultural products and inputs). In addition, all imported agricultural products and inputs must be accompanied by an SPS certificate. If an SPS certificate does not accompany an imported product it will be denied entry and must be either re-exported or destroyed at the border. Any product that is accompanied by an SPS certificate may be subjected to inspection, quarantine and testing for disease status. Finally, any product that is not found to be disease free (e.g., conform to the health condition certified on the SPS certificate) will not be permitted entry into the Kingdom and will subsequently be either re-exported or destroyed at the border. Therefore, the agriculture law provides for all permissible protection from the risks of introduction, transmission or spread of disease or pests to animals, plants and humans (i.e., protects public health to the maximum extent possible).

### Current Import License Content

Based on the above discussion, I do not believe that MOA needs to issue non-automatic licenses for any agricultural product (although I could easily argue that they should issue them for environmentally harmful inputs). Reviewing the current import licenses reinforces this belief (see Tables 1 and 2). About 85 percent of the current content of MOA-issued import licenses for live animals are to establish required health conditions.

Note that the licenses currently being issued also include some TBT measures. None of the TBT measures (except halal slaughter) are legal under GATT disciplines. For example, those requirements relating to the age of sheep must be repealed as a condition of WTO membership. Likewise, the requirements on weight and sex of imported calves can no longer be imposed.

MOA has also argued that they use import licenses to specify appropriate breeding stock for addition to domestic herds. For example, Swiss milking cows should not be imported because they do not produce a lot of milk in Jordan's climate and they frequently die. While it is nice that MOA wants to protect farmers, it does not make sense to prohibit imports of inappropriate animals. Instead, farmers should be able to determine appropriate breeds with the assistance of the MOA's extension and advisory services. That is, dairy farmers should be given brochures or other information on those breeds that do well in Jordan. In that case, the question of importing an inappropriate breed should never arise. And if it does, the farmer

will soon realize that he made a bad investment and will subsequently advise others not to make the same mistake.

**Table 1. License Conditions for Importing Animals for Breeding Stock**

Condition in license	Type of condition
1. Fees should be paid	No longer applicable
2. Animals should be free of diseases, and accompanied by sanitary certificate from the country of origin proving they are free of infectious diseases.	Health=SPS
3. Veterinary department should be notified at least 2 weeks before arrival.	Health=SPS
4. Animals should be entered from official entry points.	Health=SPS
5. Animals should be kept in Quarantine, for the time determined legally (21 days), and should be tested against all diseases especially brucellosis. If any animal were affected by infectious disease it will be damaged without compensation.	Health=SPS
6. Imported sheep shouldn't be fed by subsidized feed	No longer applicable
7. This licensee is valid for 3 months from the date of issuing	Health=SPS

The other reason for issuing import licenses is to “control” the imports of live animals. If this control is for the purpose of limiting imports to reduce competition (e.g., protect domestic producers), this will no longer be legal. And, if import licenses appear to in any way limit competition by restricting the flow of live animals into Jordan, I guarantee that Australia will take the issue to the WTO.

If “control” is for the purpose of ensuring adequate quarantine space, this is an SPS issue. Many countries require importers to reserve quarantine space for imported animals. This is done by either paying a deposit to the government for quarantine space or, at a minimum, notifying officials at least 2-3 weeks in advance of an expected arrival date for a shipment of live animals. Obviously, this is adequately covered in the new agriculture law under the provisions regarding quarantine and issuing of regulations for quarantine related to imported animals. Therefore, this is not a valid reason for issuing import licenses.

### Quantitative Restrictions

Since the agriculture law ensures protection of public health through the use of SPS measures, there should be no need to issue non-automatic import licenses for this purpose. That means the only remaining reason for issuing non-automatic licenses is monitoring quantitative restrictions. The terms of WTO accession do not include any special safeguards or tariff rate quotas for agricultural products or inputs. Therefore, quantitative restrictions may not be applied to such products except when an official safeguards investigation finds that a sudden surge in imports has caused or threatens to cause injury to domestic producers.

If a quantitative restriction is imposed as a safeguard measure, will MOA monitor compliance or will the Ministry of Industry and Trade? If MOA will monitor compliance, they do need authority to issue non-automatic licenses. But, we do not know in advance what commodity will be subject to safeguard measures and therefore we cannot, a priori, grant non-automatic licensing authority for this purpose to any entity. Therefore, the safeguards law must include provision for either MIT or other government entities to issue non-automatic licenses to

implement safeguards measures. If the process of issuing such licenses is linked to that specified in the new licensing law isn't that sufficient?

**Table 2. License Conditions for Importing Live Animals for Slaughtering**

Condition in license	Type of condition
1. Imported sheep should come directly from country of origin to Jordan.	Not legal—transit okay if from disease free region Health=SPS
2. Imported sheep should not have been rejected from any country <i>due to health conditions</i> .	Health=SPS (as amended)
3. The age of sheep must be such that the first pair of teeth are _____, with 15% exception percentage.	TBT *** Not legal ***
4. Animals should be free of diseases, and accompanied by sanitary certificate from the country of origin proving they are free of infectious diseases, including group A and B of OIE reports.	Health=SPS
5. Any shipment which violates the age condition of article 3 will be subject to punishment according to the agricultural law part 190, Para. A.	TBT *** Not legal ***
6. Animals should be vaccinated against smallpox during quarantine period at the expense of the importer.	Health=SPS
7. Imported animals should be slaughtered within 30 days from arrival. Exceeding this period will be subject to article 174.	WHY?
8. Fees should be paid	No longer applicable
9. Imported calves should be males not less than 380 Kg. live weight, accompanied by a certificate proving this.	TBT *** Not legal ***
10. Animals should be free of diseases during the last 6 months, and accompanied by sanitary certificate from the country of origin proving they are free of infectious diseases, group A and B of OIE reports and also it should be from an area free of radiation.	Health=SPS
11. It should be accompanied by a veterinary certificate proving free from infectious diseases and free from radiation.	Health=SPS
12. Calves will be subject to tests to be sure that they are free of radiation directly after arrival.	Health=SPS (but not both testing and certificates)
13. Animals should be kept in Quarantine, for the legally determined time period. If there is evidence of infectious disease it will be destroyed without compensation.	Health=SPS
14. The head of animal health division in the Ministry of Agriculture should be notified at least 2 weeks before the arrival of the calves.	Health=SPS
15. The importer should import necessary feeds for 30 days.	Why <i>import</i> ?
16. Calves should be tested against ***** disease. The result should be negative during 2 weeks from importation.	Health=SPS
17. Importation should be directly from country of origin to Jordan	Health=SPS Not justifiable
18. Calves should be transferred from the ship to vehicles to entry point under the supervision of Veterinary and Customs officials. This will not violate any agreement with other officials regarding transportation and transit.	Health=SPS
19. This license is valid for 3 months, from the date of issuing	Health=SPS

## Content of the Licensing Law

The draft of the licensing law that I received last month requires each line authority to issue instructions with regard to (and publish them in the Official Gazette):

1. The conditions and requirements for obtaining a license.
2. The procedures for applying for a license.
3. The period required for issuing a license, provided this period does not exceed 10 days in the case of automatic import or export licenses, and thirty days in the case of non-automatic import or export licenses, provided the period is sixty days in the case of licenses related to goods subject to quantitative restrictions if all applications are considered simultaneously.

Isn't this a sufficient legal basis for each line authority defining the procedures, conditions and periods for granting a license?

You also note that there is no provision in the new agriculture law establishing competence of MOA for issuing import and export licenses. Perhaps I don't understand this point. Isn't competence sufficiently implied (proven) when the Cabinet grants this right to MOA?

## Proposed Addition to the Agriculture Law

If, despite my arguments to the contrary, :)=) it is deemed necessary to add a provision to the agriculture law regarding import and export licenses, I would prefer that we NOT pair it with SPS certificates. SPS certificates will have precedence over any import or export licenses (meaning that if there is no SPS certificate with an import consignment, the product cannot be imported regardless of whether the importer has a license). The proposed text:

“The Ministry shall issue import or export licenses for agricultural products and inputs the importation or exportation of which is subject to licenses in accordance to enacted legislation and in conformity with the obligations of the Kingdom pursuant to agreements and protocols to which the Kingdom is a party. It shall also be prohibited to import or export any agricultural products or agricultural inputs unless accompanied by an accredited health certificate to certify that such products or inputs comply with relevant Sanitary and Phytosanitary requirements. Such certificate shall be prepared according to internationally known recommendations.”

implies that a license is necessary to import or export agricultural products but this is not the case (is it!?!).

Instead, we could add it to Article 3 since the issuing of licenses could be classified as “organizing work” or developing and improving the agriculture sector. However, since it is not a goal or a service, we would have to add a third paragraph to the Article as follows:

- (i) The Ministry shall be responsible for organizing work in the agricultural sector and for developing and improving it in order to achieve the following goals:
  - 1- Increasing the production of food and agricultural products;
  - 2- Insuring sustainability of natural agricultural resources without harming the environment;
  - 3- Preparing the appropriate investment climate in this sector;
  - 4- Developing rural areas and increasing its productivity;
  - 5- Increasing farmer's income and improving their living standards;
  - 6- Providing health protection for animal and plant wealth as well as the environment and effective participation in specialized international and regional organizations and concluding international agreements;
  - 7- Enhancing economic opportunities for agricultural producers and monitoring international and domestic trade opportunities;
  - 8- Monitoring market developments.

- (ii) The Ministry shall endeavor to fulfill the objectives provided for in Paragraph (I) of this Article including the delivering of basic agricultural services in the fields and areas where such services are not provided by the private sector or that the private sector does not efficiently and effectively provide them. Such services include:
- 1- Combating animal and plant pests and diseases;
  - 2- Immunizing animals against infectious diseases;
  - 3- Applicable agricultural scientific research and agricultural guidance;
  - 4- Conducting lab analysis tests in the fields related to agricultural production;
  - 5- Combating desertification (barren land) and maintaining bio-diversification;
  - 6- Erecting and administrating agricultural development projects;
  - 7- Providing agricultural statistical information and data; and
  - 8- Leasing agricultural machinery and equipment.
- (iii) In order to further fulfill the objectives provided for in Paragraph (i) of this Article, the Ministry shall issue import or export licenses for agricultural products and inputs the importation or exportation of which is subject to licenses in accordance with enacted legislation and in conformity with the obligations of the Kingdom pursuant to agreements and protocols to which the Kingdom is a party.

## Common Characteristics of SPS Certificates

Basis for rejecting an SPS certificate (IPPC)

- Illegible
- Incomplete
- Out of date
- Uncertified alterations or erasures
- Conflicting or inconsistent information
- Use of wordings that are inconsistent with the required content and wording of the certificate

Fraudulent certificates:

- Not authorized by the exporting country's national plant, animal or food protection organization (NPAFPO)
- Issued on forms not authorized by the issuing NPAFPO
- Issued by persons not authorized by the issuing NPAFPO
- Containing false information

Additional requirements by importing country that are acceptable:

- Specification of a language (from a list of specified languages)
- Time of validity (issued not more than X days before the consignment leaves the place of origin)
- Filling in (certificate must be typed or in handwritten capital letters)
- Units (specified units)

Certificates must include:

- Identification number—unique serial number that allows tracing
- Identification of issuing organization
- Identification of country of origin and re-export, if appropriate
- Name and address of exporter
- Name and address of importer
- Number and description of packages/plants/animals
- Distinguishing marks of packages/plants/animals
- Place of origin
- Declared means of conveyance (sea, air, road, rail, mail, passenger and ship name and voyage number or aircraft flight number)
- Declared point of entry
- Name of product and quantity declared (may require end use specification if SPS requirements differ—e.g., dry vs. fresh)
- Botanical name of plant
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Technical barrier to trade:

Halal slaughter certification Religious requirement